

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	)	
	)	
v.	)	
	)	CR. NO. 04-10047 RCL
LUIS RODRIGUEZ, a/k/a	)	
"ONE EYED LUIS"	)	

MOTION OF THE UNITED STATES TO CONTINUE SENTENCING  
AND FOR AN ORDER REQUIRING DEFENDANT TO ALLOW THE  
RELEASE OF HIS MEDICAL RECORDS TO THE GOVERNMENT

Now comes the United States, by its undersigned attorneys, and requests that the Court continue the sentencing of this matter, currently scheduled for December 19, 2005. The government also requests that, instead, the Court hold a status conference on that date. The government further requests an Order that the defendant be required to allow the release of his medical records to the government. The undersigned has conferred with counsel for the defendant, Valerie Carter, pursuant to L.R. 7.2, and Ms. Carter has indicated that she intends to oppose both of the government's requests. In support of this motion, the government states as follows.

At the previous sentencing hearing, the defendant argued that he has a serious physical condition that the Bureau of Prisons is unable to treat, and therefore requested that the Court sentence him to a term of imprisonment of time served. The defendant's guideline sentencing range under the U.S.S.G. is 188 to 235 months. The Court concluded that further medical testing and evaluation of the defendant was required. Counsel for the

government subsequently wrote the defendant's counsel a letter requesting that she share the results of any medical testing, or have her client execute a Privacy Act waiver so that the government could look at the same documents that defense counsel would be looking at and potentially relying upon in seeking a sentence. Counsel for the defendant responded in writing that she would not share the medical records and would not have her client execute a Privacy Act waiver.

The undersigned counsel for the government has been advised by the General Counsel of the Plymouth Sheriff's Department that the defendant has recently been evaluated at Shattuck Hospital, including an evaluation by an ear, nose, and throat specialist, and has also had a CT scan at Shattuck. The undersigned also has been advised that the defendant is scheduled to be evaluated by a neurologist at Shattuck Hospital during the week of December 19, 2005.

The government is unable to obtain any of the records of the evaluations and tests (such as the CT scan) that the defendant has already had because defense counsel refuses to allow her client to sign a Privacy Act waiver. Therefore this information is unavailable to the government for the December 19, 2005 hearing. Moreover, and most significantly, since the defendant is scheduled to be evaluated by a neurologist at Shattuck Hospital during the week of December 19, 2005, it makes no sense

to sentence the defendant, given the defendant's allegations about his medical condition, without the benefit of the results of that evaluation (as well as the results of the other evaluations/tests at Shattuck Hospital.

For the foregoing reasons, the government requests that the Court continue the sentencing scheduled for December 19, 2005, and instead hold a status conference on that date. The government further requests that the Court Order that defense counsel be required to disclose all medical records of the defendant to the government, and that the defendant be required to execute a Privacy Act waiver so that all parties -- the Court, the defendant, and the government -- will have the same information about the defendant's medical condition.

Respectfully submitted,

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December 15, 2005